

## **REMARKS**

### **I. Status of the Subject Application**

Claims 1-8 are pending in the subject application and stand rejected. In response to the rejections asserted in the Official Action, Applicant respectfully submits the following:

### **II. The Rejections Under 35 U.S.C. § 102(b)**

Claims 1-4 and 8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No.4,288,958 to Chalmers et al. ("Chalmers et al."). In particular, the Official Action provides:

Chalmers discloses the claimed invention an apparatus comprising a joist rim (12) having a web (26) and first and second rim legs (24) extending substantially perpendicularly from the web (figure 2), at least one opening (28) through the web (26), a joist attachment tab (14) integrally formed in the web (column 4, lines 64-65) adjacent each opening (28 –figure 2), each of the attachment tabs extending from the web at an angle relative to the web (column 5, lines 39-49), and at least one reinforcing rib (32) corresponding to each of the tab (14) and provided in each of the web adjacent the corresponding tab (figure 2); the angle between each attachment tab and the web is substantially ninety degrees (shown in figure 2); each reinforcing rib (32) is parallel to the adjacent tab (14); the reinforcing ribs comprise indentations (at 32) that are embossed on a surface of the web (26); and, the web (26) has a plurality of fastener holes (28) therethrough.

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Reply to Official Action of June 22, 2004*

Responsive to this rejection, Applicant submits that Section 2131.01 of the Manual of Patent Examining Procedure (“MPEP”) provides:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

MPEP § 2131.01 (emphasis added). Claim 1 is directed to “[a]n apparatus for supporting a plurality of **joists**, the apparatus comprising: a **joist** rim having a web and first and second rim legs extending substantially perpendicularly from the web...”. Chalmers et al. is directed to vertical stringers for hanging horizontally elongated **siding panels**. The word “**joist**” **does not** appear anywhere in the Chalmers et al. patent. The American Heritage Dictionary defines the term “**joist**” as follows:

Any of the parallel horizontal beams set from wall to wall to support the boards of a floor or ceiling.”

The American Heritage Dictionary 690 (Second College Edition 1991). Chalmers et al. are not concerned with joists and nowhere in the Chalmers et al. patent is a joist rim disclosed. Accordingly, Chalmers et al. does not disclose each and every element of claim 1 in the same form as recited in that claim and, thus, cannot anticipate the subject matter of that claim. Therefore, Applicant respectfully traverses that rejection.

### **III. The Rejections Under 35 U.S.C. § 103**

Claim 5 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Chalmers in view of U.S. Patent No. 5,956,916 to Liss (“Liss”). In particular, the Official Action provides:

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Chalmers discloses the claimed invention as stated above in claim 1, except for the joist attachment tabs has a plurality of fastener holes. Liss teaches that it is known in the art to provide the joist attachment tab (6) with a plurality of fasteners holes (13) therethrough. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the plurality of fastener hole sin the attachment tab as taught by Liss with the attachment tab of Chalmers in order to provide a further securing means to attach a member to the tab by the use of screws (column 3, line 67 and column 4, lines 1-2).

Column 3, line 67-column 4, lines 1-2 of Chalmers et al. provide:

The locking projection on each panel is so dimensioned, in relation to the spacing between the inner surface of the clip above the lower locking seat and the last mentioned vertical plane as to permit the panel to pivot through a substantial angle about an axis substantially coincident with the clip bottom edge...

This passage fails to disclose or suggest the use of separate fasteners. In fact, Chalmers et al. actually teach away from the use of separate fasteners. Chalmers et al. provide:

Siding panels of the type described above have conventionally been secured to walls by fasteners such as nails driven through a flat nailing flange (which may have prepunched nail holes) provided at the panel top margin above the locking lip, or alternatively by plural small individual clips which engage the locking lips of the panels and are nailed or otherwise fastened on the wall. **These mounting arrangements are disadvantageous** in that it is difficult to achieve proper positioning and alignment of the successive courses of panels, especially when installation is being performed by homeowners without experience or special equipment.

Column 1, lines 41-52 of Chalmers et al. (emphasis added). Furthermore, if one were to use screws to fasten a siding panel to the clip (14) of Chalmers et al. as suggested in the Official Action, the screws would require the provision of holes through the lower

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portion of the central web (18) of the siding panels (10). See Figures 1 and 3-5 of Chalmers et al. Such fastener holes would provide passages through the panels for water to infiltrate behind the panels and to damage the very wall materials that the panels are designed to protect. To prevent such water infiltration through the panels, each hole would have to be sealed, which would lead to increased installation costs. Such reason alone would lead the skilled artisan away from utilizing such approach. In addition, the fastener heads would be exposed and detract from the panel's aesthetic appearance – providing yet another reason not to employ the suggested modification. These reasons, in addition to the reasons explicitly stated in the Chalmers et al. patent, clearly teach away from the suggested modification. Accordingly, Applicant respectfully submits that a *prima facie* case of obviousness has not been established with respect to claim 5.

Claims 6 and 7 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Chalmers et al. in view of U.S. Patent No. 3,845,601 to Kostecky ("Kostecky"). The Official Action provides:

Chalmers discloses the claimed invention as stated above in claim 1, except for the first leg has a plurality of fastener holes therethrough. Kostecky teaches that it is known in the art to provide the first leg (4) has a plurality of fastener holes 912) therethrough. It would have been obvious for one having ordinary skill in the art at the time the invention was made to provide plurality of fastener holes in the first leg as taught by Kostecky first leg of Holmes in order to assure that the apparatus will be in proper position if applied to the legs of the web "24" and will remain tightly to the panle [sic] or track (column 2, lines 65-67).

Responsive to this rejection, Applicant is unsure what significance the reference to

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"Holmes" is meant to have in view of the fact that no Holmes reference has been asserted as forming the basis of this rejection. Notwithstanding this fact, Applicant has been unable to find the use of the word "joist" anywhere in the Kostecky reference which is directed to a metal wall framing system. Thus, even if one were to combine Chalmers et al. with Kostecky as suggested, the resulting combination would at least lack the recited joist rim. Accordingly, a *prima facie* case of obviousness has not been established with respect to claims 6 and 7.

#### **IV. Consideration of Information Disclosure Statements**

##### **a. Previously Filed Information Disclosure Statements**

Applicant filed an Information Disclosure Statement contemporaneously with the subject application. Copies of the following documents are enclosed:

- June 23, 2003 Information Disclosure Statement (4 pages);
- Form PTO/SB/08A (10-01) (6 six pages);
- Form PTO/SB/05 (05-03) Utility Patent Application Transmittal that accompanied the subject application and which identifies the above Information Disclosure Statement; and
- The Post Card that accompanied the subject application and Information Disclosure statement.

On July 14, 2003, Applicant submitted another Information Disclosure Statement and accompanying PTO Form PTO/SB/08A (10-01) (the "second IDS"). Copies of the second IDS, Form PTO/SB/08A (10-01) and the post card that accompanied the second IDS and which bears the PTO's July 14, date stamp are enclosed.

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On September 4, 2003, Applicant submitted a Supplemental Information

Disclosure Statement and PTO Form PTO/SB/08A (10-01). Copies of those documents and a copy of the Express Mail Receipt are enclosed.

The Official Action failed to include initialed copies of the above-mentioned Forms PTO/SB/08A which were timely filed to confirm that all of the cited materials have been considered by the Examiner. Accordingly, Applicant respectfully requests copies of the initialed Forms PTO/SB/08A confirming that the cited art has been considered.

**b. Additional Information Disclosure Statement**

Applicant is also herewith enclosing another Supplemental Information Disclosure Statement and a check in the amount of \$180. The PTO is hereby authorized to charge deposit Account no. 11-1110 for any fee deficiencies associated with this Information Disclosure Statement and/or Amendment. Consideration of this additional Information Disclosure Statement is respectfully requested.

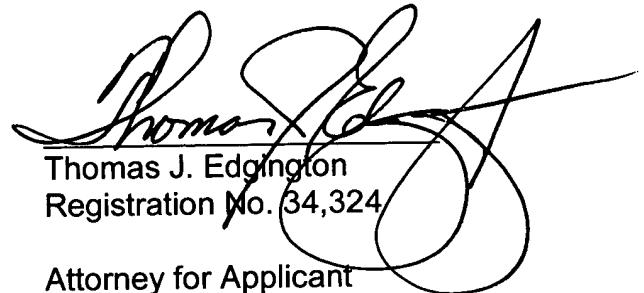
**IVI. Conclusion**

Applicant submits that all of the pending claims are in condition for allowance. Accordingly, reconsideration and withdrawal of the rejections in the Official Action and passage to allowance of all the pending claims at an early date are earnestly solicited. However, if the Examiner has any remaining concerns regarding Applicant's present

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Amendment, she is invited to contact the Applicant's undersigned attorney at the telephone number listed below so that those concerns may be expeditiously addressed.

Respectfully submitted,



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PATENT  
98356CONCONCON  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit: :  
Examiner :  
In re application of :  
Daudet et al. : JOIST SUPPORT APPARATUS  
Serial No. [To Be Assigned] :  
Filed: :

**INFORMATION DISCLOSURE STATEMENT**

Pittsburgh, Pennsylvania 15222

June 23, 2003

Mail Stop Patent Application  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The above-referenced application (the "subject application") is a continuation of U.S. Patent Application Serial No. 10/145,471, filed May 14, 2002 (the "parent application"), which is a continuation of U.S. Patent Application Serial No. 09/723,899, filed November 28, 2000 (the "grandparent application") which is a continuation of U.S. Patent Application Serial No. 09/199,661, filed November 25, 1998 (the "great grandparent application"). The subject application claims priority from the parent, grandparent and great grandparent applications.

The great grandparent application has issued as U.S. Patent No. 6,301,854.

The grandparent application remains pending. A Notice of Allowance issued on May 21, 2003 in connection with the grandparent application. Applicant is filing on even date hereof a Request For Continued Examination (“RCE”) of the grandparent application to have an Information Disclosure Statement considered which cites U.S. Patent No. 6,418,694 to Daudet et al. (the “‘694 patent”) which matured from U.S. Patent Application Serial No. 09/944,671 and which is a divisional application of the grandparent application. The grandparent application is before Primary Examiner Chilcot, Jr. of Art Unit No. 3627. A copy of the text of the allowed claims and a copy of page 2 of a Notice of Allowance for the grandparent application are also enclosed.

The parent application remains pending. A Notice of Allowance issued in connection with the parent application on March 25, 2003. Applicant is filing on even date hereof an RCE of the parent application to have an Information Disclosure Statement considered which cites the ‘694 patent.

In accordance with the duty of disclosure pursuant to 37 C.F.R. § 1.56, Applicant hereby advises the United States Patent and Trademark Office (“PTO”) of the references listed on the accompanying Form PTO-1449 *Information Disclosure Statement By Applicant* -Substitute for form 1449A/PTO. With the exception of the ‘694 patent, the references cited therein were of record in the parent and/or grandparent and/or great grandparent applications. Accordingly, pursuant to 37 C.F.R. § 1.98(d), Applicant is enclosing a copy of the ‘694 patent and a copy of the published parent application and is not required to enclose copies of the other references. If, however, the Examiner would like to obtain additional copies of

such references, Applicant will promptly supply such copies upon the Examiner's request.

Applicant also informs the PTO of the following:

**Related Litigation**

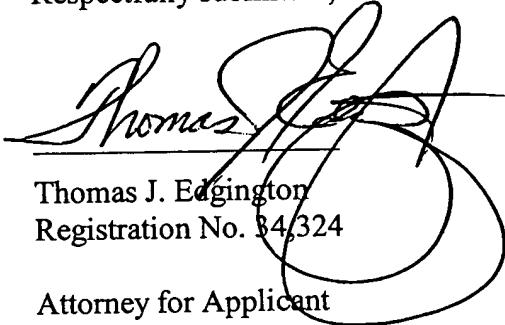
On April 5, 1999, Steel Floors, LLC of 7935 E. Prentice Avenue, Suite 103, Greenwood Village, Colorado 80111 (hereinafter "Steel Floors") filed a complaint in District Court, Denver County, Colorado (Civil Action No. 99CV2248) that contained various unfair competition, misappropriation of business value, and unjust enrichment claims against Dietrich Industries, Inc., Assignee of the parent, grandparent, great grandparent and the parent and the subject applications.<sup>1</sup> Applicant submitted a copy of that Complaint in connection with the grandparent application. On September 28, 1999, the PTO issued U.S. Patent No. 5,956,916 to George Louis Liss (hereinafter the "Liss Utility Patent"). On September 29, 1999, Steel Floors filed a Verified Amended and Restated Complaint, wherein Steel Floors added a claim of patent infringement based on the Liss Utility Patent. A copy of the Verified and Amended and Restated Complaint was filed in connection with the parent application. Since then, Steel Floors has further amended its complaint to assert infringement of U.S. Patent No. DE – 423,325, issued April 25, 2000 (the "Liss Design Patent").

On September 5, 2000, Steel Floor's filed a request for reexamination of the Liss Utility Patent. That request was subsequently granted and merged with another request for reexamination filed by Applicant on April 2, 2001. On February 21, 2001, the above-mentioned litigation was stayed pending the outcome of the reexamination proceedings which presently remain pending.

Applicant notes that although the cited references may be relevant to the

examination of the above-referenced application, under 37 C.F.R. § 1.97(h), the filing of this Information Disclosure Statement "shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to the patentability as defined in § 1.56(b)."

Respectfully submitted,



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<sup>1</sup> Dietrich Industries, Inc. is referred to herein as "Applicant".

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

Substitute for form 1449A/PTO				<i>Complete If Known</i>	
				Application Number	
				Filing Date	
				First Named Inventor	Ponko et al.
				Art Unit	
				Examiner Name	
(use as many sheets as necessary)					
Sheet	1	of	6	Attorney Docket Number	98356CONCONCON

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number - Kind Code <sup>2</sup> (if known)	MM-DD-YYYY		
		US 2002/0134036 A1	9/2002	Daudet et al.	
		D423,325	4/2000	Liss	
		741,066	10/1903	O'Shea	
		947,514	1/1910	Stevens	
		1,656,741	1/1928	Lane	
		1,682,202	8/1928	Vaugh	
		2,106,084	1/1938	Coddington	
		2,145,407	1/1939	Soule	
		2,185,475	1/1940	Rafter	
		2,744,590	5/1956	Butts	
		2,964,807	12/1960	Kennedy	
		2,966,708	1/1961	Freeman, Jr.	
		3,010,162	11/1961	Klein	
		3,083,794	4/1963	Stoval, Jr.	
		3,201,874	8/1965	Christy	
		3,668,828	6/1972	Nicholas et al.	
		3,685,866	8/1972	Patenaude	
		3,717,964	2/1973	Brown et al.	
		3,751,870	8/1973	Vesei	
		3,818,662	6/1974	DeSchutter	
		3,845,601	11/1974	Kostecky	
		3,854,192	12/1974	O'Konski	
		3,854,601	11/1974	Kostecky	
		3,908,328	9/1975	Nelsson	
		3,973,367	8/1976	Johnson et al.	
		4,002,001	1/1977	Uydess	
		4,016,700	4/1977	Blomstedt	
		4,042,991	8/1977	Macy et al.	
		4,047,348	9/1977	McSweeney	
		4,058,941	11/1977	Zakrewski et al.	
		4,075,807	2/1978	Alderman	
		4,075,810	2/1978	Zakrewski et al.	
		4,194,328	3/1980	Pierson et al.	
		4,197,952	4/1980	DeFouw et al.	
		4,229,915	10/1980	Snow et al.	
		4,246,736	1/1981	Kovar et al.	

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

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				Application Number	
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				Art Unit	
				Examiner Name	
(use as many sheets as necessary)				Attorney Docket Number	98356CONCONCON
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<b>U.S. PATENT DOCUMENTS</b>						
Examiner Initials*	Cite No. <sup>1</sup>	Document Number		Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number - Kind Code <sup>2</sup> (if known)				
		4,288,958		9/1981	Chalmers et al.	
		4,385,476		5/1983	Slager	
		4,490,956		1/1985	Palacio et al.	
		4,538,391		9/1985	Skrabis et al.	
		4,551,957		11/1985	Madray	
		4,566,818		1/1986	Schwartz et al.	
		4,608,801		9/1986	Green et al.	
		4,616,453		10/1986	Sheppard, Jr. et al.	
		4,625,948		12/1986	Lustvee	
		4,637,195		1/1987	Davis	
		4,660,799		4/1987	Butland	
		4,688,358		8/1987	Madray	
		4,761,928		8/1988	Pichette	
		4,793,113		12/1988	Bodnar	
		4,827,681		5/1989	Platt	
		4,866,899		9/1989	Houser	
		4,894,967		1/1990	Morton	
		4,909,007		3/1990	Bodnar	
		4,912,894		4/1990	Platt	
		4,918,899		4/1990	Karytinos	
		5,137,390		8/1992	Felsen	
		5,149,221		9/1992	Slapsys	
		5,157,883		10/1992	Meyer	
		5,165,555		11/1992	Anatalio	
		5,207,045		5/1993	Bodnar	
		5,274,973		1/1994	Liang	
		5,289,665		3/1994	Higgins	
		5,313,752		5/1994	Hatzinikolas	
		5,353,560		10/1994	Heydon	
		5,394,665		3/1995	Johnson	
		5,412,919		5/1995	Pellock et al.	
		5,426,906		6/1995	McCracken	
		5,527,625		6/1996	Bodnar	
		5,592,848		1/1997	Bodnar	
		5,596,859		1/1997	Horton et al.	
		5,625,995		5/1997	Martin	
		5,657,596		8/1997	Powers, III	
		5,664,392		9/1997	Mucha	
		5,671,580		9/1997	Chu	
		5,687,538		11/1997	Frobosilo et al.	
		5,689,922		11/1997	Daudet	
		5,857,306		1/1999	Pellock	
		5,870,874		2/1999	Brothers	

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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				Filing Date	
				First Named Inventor	Ponko et al.
				Art Unit	
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Sheet	3	of	6	Attorney Docket Number	98356CONCONCON

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		Number - Kind Code <sup>2</sup> (if known)			
		5,956,916	9/1999	Liss	
		5,964,071	10/1999	Sato	
		6,131,358	10/2000	Wise	
		6,170,217	1/2001	Meyer	
		6,230,467	5/2001	Leek	
		6,301,854	10/2001	Daudet et al.	
		6,354,055	3/2002	Shaw et al.	
		6,418,694	7/2002	Daudet et al.	

FOREIGN PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Country Code <sup>3</sup> -Number <sup>4</sup> -Kind Code <sup>5</sup> (if known)			
		JP 9-4067	1/1997		
		CA 2,077,170	8/1992		
		CA 1055219	5/1979		
		AU 23961/77	12/1978		
		AU 24938/71	Date unclear		
		AU 622263	4/1992		
		UK 2171731A	9/1986		
		UK 2128219A	4/1984		
		JP 6-49908	2/1994		
		FR 2,362,251	3/1978		
		CA 1,192,015	8/1985		
		UK 1566160	4/1980		
		UK 2103264A	2/1983		
		UK 2272715	5/1994		
		EPO 0373727	6/1990		
		EPO 0637656	2/1995		
		EPO 0080088	6/1983		

Examiner Signature	Date Considered
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				Application Number	
				Filing Date	
				First Named Inventor	
				Art Unit	
				Examiner Name	
(use as many sheets as necessary)					
Sheet	4	of	6	Attorney Docket Number	

<b>NON PATENT LITERATURE DOCUMENTS</b>					
Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published			T <sup>2</sup>
		Marino Industries Corporation; <i>Stud-Rite Lightweight Steel Framing</i> , 1982, p. 12, Westbury, NY			
		Zinc Institute Inc., <i>Residential Steel Frame Construction, Builder's Guide to Lightweight Zinc-Coated Steel</i> , 1982, New York, NY			
		Dale//Incor, <i>Manufacturer of Steel Framing Systems</i> , 1989, p. 1-36, Pewaukee, WI			
		Dietrich Industris, Inc., <i>Light Gage Steel Framing Typical Construction Details</i> , 10/94, 1-33, Pittsburgh, PA			
		Unimast Incorporated, <i>Steel Framing Systems Technical Information</i> , 1991, 1-40, Franklin, IL			
		American Society of Civil Engineers, <i>Composite Construction in Steel and Concrete II</i> , 12/9/1993, p. 882-899, New York, NY			
		Construction Steel Design, <i>Hollow Section Column to Open Section Beam Connections – Design Appraisal</i> , 106-214, 1992, England			
		American Iron and Steel Institute, <i>Low-Rise Residential Construction Details</i> , June, 1993, Washington, DC			
		E. N. Lorre, <i>Residential Steel Framing Construction Guide</i> , 1993, Laguna Hills, CA			
		Delta Metal Products, Inc., <i>Residential Steel Frame Construction</i> , June, 1994, 1-13			

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> Applicant is to place a check mark here if English language Translation is attached.

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				Application Number	
				Filing Date	
				First Named Inventor	Ponko et al.
				Art Unit	
				Examiner Name	
Sheet	5	of	6	Attorney Docket Number	98356CONCONCON

<b>NON PATENT LITERATURE DOCUMENTS</b>				
Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published		
		MarinoWare, <i>Stud-Rite Lightweight Steel Framing Systems</i> , 1-35, 1994, Hunt Valley, MD		T <sup>2</sup>
		Dietrich Industries, Inc., <i>Curtain Wall/Light Gage Structural Framing Products</i> , 1-16, 1995, Pittsburgh, PA		
		U.S. Department of Housing and Urban Development, <i>Prescriptive Method for Residential Cold-Formed Steel Framing Second Edition</i> , p. 1-93, September, 1997, Rockville, MD 20849		
		Monex Corporation; <i>Monex Steel Framing</i> , Publication date unknown, North Miami Beach, FL		
		National Gypsum Company, <i>Gold Bond Metal Products for Interior Finishing</i> , September 1981, Charlotte, NC		
		Angles Metal Systems, Technical Data Sheets 101, 102, 107, 108, 113, 114, 115, 116, 117, 118, 119, and 120; 1984, Los Angeles, CA		
		Angles Metal Systems, Inc.; <i>Steel Frame Program</i> ; publication date unknown		
		Clark Steel Framing Systems, <i>Clark Structural Framing</i> ; 1995		
		Cemco, <i>Steel Framing Systems</i> , 1996, Industry, CA		
		USG Interiors, Inc., <i>Ceiling Suspension Systems</i> , January, 1991, Chicago, IL		
		G-P Gypsum Corporation, <i>Gyproc Shaftwall/Stairwall Systems</i> , March, 1997, USA		
		Steel Floors LLC, <i>Monthly New Letter</i> , October, 1998, Greenwood Village, CO		

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

Substitute for form 1449A/PTO <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> <i>(use as many sheets as necessary)</i>					<b>Complete if Known</b>	
			Application Number			
			Filing Date			
			First Named Inventor	Ponko et al.		
			Art Unit			
			Examiner Name			
Sheet	6	of	6	Attorney Docket Number	98356CONCONCON	

<b>NON PATENT LITERATURE DOCUMENTS</b>					
Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published			T <sup>2</sup>
		Steel Floors LLC, <i>Monthly New Letter</i> , June, 1998, Greenwood Village, CO			
		Steel Floors LLC, <i>Monthly New Letter</i> , February, 1998, Denver, CO			
		Steel Floors LLC, Brochure – <i>Why Steel Floors</i> , Publication date unknown			
		Steel Floors LLC, <i>Monthly News Letter</i> , November, 1997, Denver, CO			
		Sullivan, Steel Framing: <i>Thermally Challenged</i> , JLC, March 1994			
		Dietrich Industries, Inc., a portion of a brochure published concerning J-Track, published at least as early as December 1991, Page 2, Pittsburgh, PA			
		Dietrich Industries, Inc., <i>1<sup>st</sup> Step to Residential Metal Framing (non-load Bearing Walls)</i> , June, 1994, Pittsburgh, PA			
		NAHB, Homebase News, Spring 1999, Upper Marlboro, MD			
		Response to Patent Owner's Statement in Reexamination Control No. 90/005,970			

Examiner Signature		Date Considered	
--------------------	--	-----------------	--

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

***Allowable Subject Matter***

The following is an examiner's statement of reasons for allowance: the prior art fails to teach or suggest alone or in combination a floor joist system and method having a rim member including at least one reinforcing rib corresponding to each tab and providing in the web adjacent the tab.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard E. Chilcot, Jr. whose telephone number is 703-305-4716. The examiner can normally be reached on 5/4/9 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3687 for regular communications and 703-308-3687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1020.

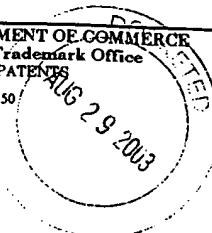


Richard E. Chilcot, Jr.  
Primary Examiner  
Art Unit 2167



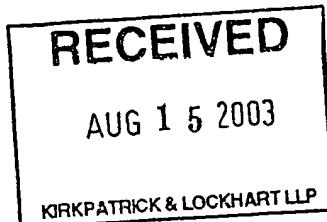
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[www.uspto.gov](http://www.uspto.gov)



**NOTICE OF ALLOWANCE AND FEE(S) DUE**

26285      7590      08/13/2003  
KIRKPATRICK & LOCKHART LLP  
535 SMITHFIELD STREET  
PITTSBURGH, PA 15222



EXAMINER	
CHILCOT, RICHARD E	
ART UNIT	CLASS-SUBCLASS
3627	052-272000

DATE MAILED: 08/13/2003

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/723,899	11/28/2000	Larry Randall Daudet	983-6CON	6864

TITLE OF INVENTION: JOIST SUPPORT MEMBER

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$0	\$0	\$0	11/13/2003

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-8SB (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

**HOW TO REPLY TO THIS NOTICE:**

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

Applicant claims SMALL ENTITY status.  
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

**Notice of Allowability**

Application No.

09/723,899

Applicant(s)

DAUDET ET AL.

Examiner

Art Unit

Richard E. Chilcot, Jr.

3627

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to Request for Continued Examination filed 6/23/2003.
  2.  The allowed claim(s) is/are 11-17.
  3.  The drawings filed on 01/09/2002 are accepted by the Examiner.
  4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some\*    c)  None    of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_.
5.  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
(a)  The translation of the foreign language provisional application has been received.
  6.  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.
- Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**
7.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  8.  CORRECTED DRAWINGS must be submitted.  
(a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached  
    1)  hereto or 2)  to Paper No. \_\_\_\_.  
(b)  including changes required by the proposed drawing correction filed \_\_\_\_, which has been approved by the Examiner.  
(c)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- Notice of References Cited (PTO-892)
- Notice of Draftsperson's Patent Drawing Review (PTO-948)
- Information Disclosure Statements (PTO-1449), Paper No. 28.
- Examiner's Comment Regarding Requirement for Deposit of Biological Material

- Notice of Informal Patent Application (PTO-152)
- Interview Summary (PTO-413), Paper No. \_\_\_\_.
- Examiner's Amendment/Comment
- Examiner's Statement of Reasons for Allowance
- Other

Richard E. Chilcot, Jr.  
Primary Examiner  
Art Unit: 3627

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit 3627 :  
Examiner Chilcot  
  
In re application of : JOIST SUPPORT MEMBER  
  
Larry R. Daudet et al. :  
  
Serial No. 09/723,899 : Group 3600  
  
Filed November 28, 2000 :  
  
Allowed August 13, 2003 :

**ALLOWED CLAIMS (7)**

1. (11) A member for supporting a plurality of joists, said member comprising:

a C-shaped rim member fabricated from metal and having a web and two leg portions;

a plurality of joist attachment tabs integrally formed in said web, said joist attachment tabs being provided at predetermined distances on said web relative to each other; and

at least one reinforcing rib corresponding to each said tab and provided in said web adjacent said corresponding tab.

2. (12) The joist support apparatus of claim 1 wherein at least one said reinforcing rib is oriented at an angle relative to at least one said tab.

3. (13) The joist support apparatus of claim 2 wherein said angle is approximately forty-five degrees.

4. (14) The joist support apparatus of claim 2 wherein at least two said reinforcing ribs intersect each other.
5. (15) The member of claim 1 wherein each said tab has a plurality of fastener holes therethrough.
6. (16) The member of claim 1 further comprising at least one opening through said web.
7. (17) A member for supporting at least one joist on a support structure, said member comprising:
  - a C-shaped rim member fabricated from metal and having a web and two leg portions;
  - means for attaching a plurality of joists to said web, said means for attaching being integrally formed in said web and being provided at predetermined distances on said web relative to each other; and
  - reinforcing means in said web adjacent each said means for attaching.

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Thomas J. Edgington, Esq.

Kirkpatrick & Lockhart LLP  
Henry W. Oliver Building  
535 Smithfield Street  
Pittsburgh, PA 15222-2312

Our File: 98356CONCONCON

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PATENT  
98356CONCONCON  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit: :  
Examiner :  
In re application of :  
Daudet et al. : JOIST SUPPORT APPARATUS  
Serial No. 10/601,404 :  
Filed: June 23, 2003 :

**INFORMATION DISCLOSURE STATEMENT**

Pittsburgh, Pennsylvania 15222

July 14, 2003

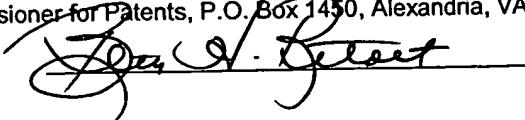
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant previously filed an Information Disclosure Statement in connection with the subject application citing, among other things, U.S. Patent Application Serial No. 09/723,899, filed November 28, 2000, which has been allowed and which Applicant has now

"Express Mail" mailing label number EU150829787US  
Date of Deposit July 14, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

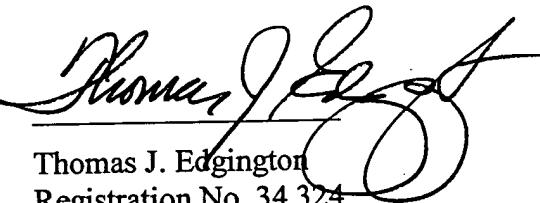


filed a Request For Continued Examination ("RCE") to have an Information Disclosure Statement considered. A copy of the text of the allowed claims and a copy of page 2 of a Notice of Allowance for that cited application were enclosed with the Information Disclosure Statement. However, a copy of that application was not submitted.

Accordingly, Applicant is herewith submitting a copy of U.S. Patent Application Serial No. 09/723,899.

Applicant notes that although the cited references may be relevant to the examination of the above-referenced application, under 37 C.F.R. § 1.97(h), the filing of this Information Disclosure Statement "shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to the patentability as defined in § 1.56(b)."

Respectfully submitted,



Thomas J. Edgington  
Registration No. 34,324

Attorney for Applicant

Kirkpatrick & Lockhart LLP  
Henry W. Oliver Building  
535 Smithfield Street  
Pittsburgh, PA 15222  
Telephone: (412) 355-8303  
Fax: (412) 355-6501

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Substitute for form 1449A/PTO				<i>Complete if Known</i>	
<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>				Application Number	10/601,404
				Filing Date	June 23, 2003
				First Named Inventor	Daudet et al.
				Art Unit	
				Examiner Name	
(use as many sheets as necessary)				Attorney Docket Number	98356CONCONCON
Sheet	1	of	1		

## **U.S. PATENT DOCUMENTS**

## **FOREIGN PATENT DOCUMENTS**

**Examiner  
Signature** \_\_\_\_\_ **Date  
Considered** \_\_\_\_\_

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> Applicant is to place a check mark here if English language Translation is attached.

Burden Hour Statement: This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, PI-1030822 v1 0174010-0123

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit 3627  
Examiner Chilcot  
In re application of : FLOOR SYSTEM AND FLOOR  
SYSTEM CONSTRUCTION METHODS  
Larry R. Daudet et al. : Group 3600  
Serial No. 09/723,899 :  
Filed November 28, 2000 :  
Allowed May 21, 2003 :

**ALLOWED CLAIMS (7)**

1. (11) A member for supporting a plurality of joists, said member comprising:
  - a C-shaped rim member fabricated from metal and having a web and two leg portions;
  - a plurality of joist attachment tabs integrally formed in said web, said joist attachment tabs being provided at predetermined distances on said web relative to each other; and
  - at least one reinforcing rib corresponding to each said tab and provided in said web adjacent said corresponding tab.
2. (12) The joist support apparatus of claim 1 wherein at least one said reinforcing rib is oriented at an angle relative to at least one said tab.
3. (13) The joist support apparatus of claim 2 wherein said angle is approximately forty-five degrees.

4. (14) The joist support apparatus of claim 2 wherein at least two said reinforcing ribs intersect each other.

5. (15) The member of claim 1 wherein each said tab has a plurality of fastener holes therethrough.

6. (16) The member of claim 1 further comprising at least one opening through said web.

7. (17) A member for supporting at least one joist on a support structure, said member comprising:

a C-shaped rim member fabricated from metal and having a web and two leg portions;

means for attaching a plurality of joists to said web, said means for attaching being integrally formed in said web and being provided at predetermined distances on said web relative to each other; and

reinforcing means in said web adjacent each said means for attaching.

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# UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.	98356CONCONCON
First Inventor	L. Daudet
Title	JOIST SUPPORT APPARATUS
Express Mail Label No.	EU990149546US

**APPLICATION ELEMENTS**

See MPEP chapter 600 concerning utility patent application contents.

1.  Fee Transmittal Form (e.g., PTO/SB/17)  
*(Submit an original and a duplicate for fee processing)*
2.  Applicant claims small entity status.  
See 37 CFR 1.27.
3.  Specification [Total Pages 22]  
*(preferred arrangement set forth below)*
  - Descriptive title of the invention
  - Cross Reference to Related Applications
  - Statement Regarding Fed sponsored R & D
  - Reference to sequence listing, a table, or a computer program listing appendix
  - Background of the Invention
  - Brief Summary of the Invention
  - Brief Description of the Drawings *(if filed)*
  - Detailed Description
  - Claim(s)
  - Abstract of the Disclosure
4.  Drawing(s) (35 U.S.C. 113) [Total Sheets 13]
5. Oath or Declaration [Total Sheets 3]
  - a.  Newly executed (original or copy)
  - b.  Copy from a prior application (37 CFR 1.63(d))  
*(for continuation/divisional with Box 18 completed)*
    - i.  **DELETION OF INVENTOR(S)**  
Signed statement attached deleting Inventor(s) name in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6.  Application Data Sheet. See 37 CFR 1.76

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7.  CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission *(if applicable, all necessary)*
  - a.  Computer Reader Form (CRF)
  - b. Specification Sequence Listing on:
    - i.  CD-ROM or CD-R (2 copies); or
    - ii.  Paper
  - c.  Statements verifying identity of above copies

**ACCOMPANYING APPLICATION PARTS**

9.  Assignment Papers (cover sheet & document(s))
10.  37 CFR 3.73(b) Statement  Power of Attorney  Copy *(when there is an assignee)*
11.  English Translation Document *(if applicable)*
12.  Information Disclosure Statement (IDS)/PTO-1499  Copies of IDS Citations
13.  Preliminary Amendment
14.  Return Receipt Postcard (MPEP 503) (x) Ltr. to *(Should be specifically itemized)*
15.  Certified Copy of Priority Document(s)  Draftsperson *(if foreign priority is claimed)*
16.  Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
17.  Other: ...Communication Submitted....  
w/ Continuation Application & (X) Marked up

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:

 Continuation       Divisional       Continuation-in-part (CIP)      of prior application No.: 10/145,471

spec.

Prior application information: Examiner B. E. Glessner Art Unit: 3635  
 For CONTINUATION OF DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

**19. CORRESPONDENCE ADDRESS**

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Name (Print/Type)	Thomas J. Edgington	Registration No. (Attorney/Agent)	34,324
Signature			
Date	6-23-03		

This collection of information is required by 37 CFR 1.53(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Kirkpatrick & Lockhart LLP  
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S.N. 98356  
Docket No. Conccon  
Title: Joist Support Apparatus

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- New Pat. Appl. Tran.  
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 Fee Transmittal (2x)  
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15 sheets of informal drawings  
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PATENT  
98356CONCONCON  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit: 3635 :  
Examiner :  
In re application of :  
Daudet et al. : JOIST SUPPORT APPARATUS  
Serial No. 10/601,404 :  
Filed: June 23, 2003 :

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

Pittsburgh, Pennsylvania 15222

September 4, 2003

Commissioner for Patents  
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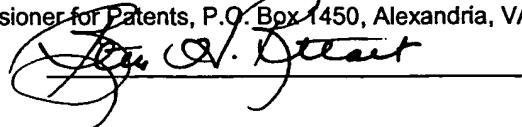
Sir:

Applicant previously filed an Information Disclosure Statement in connection  
with the subject application citing, among other things, U.S. Patent Application Serial No.  
09/723,899, filed November 28, 2000, and notified the PTO that Applicant recently filed a

"Express Mail" mailing label number ER524409884US

Date of Deposit September 4, 2003

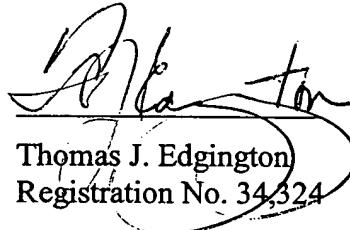
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Request For Continued Examination ("RCE") in connection with that application. Applicant informs the PTO that a Notice of Allowance and Fees Due dated August 13, 2003 (the "Notice of Allowance") has issued in connection with that application. A copy of the Notice of Allowance and a copy of the text of the allowed claims are herewith enclosed.

Applicant notes that although the cited references may be relevant to the examination of the above-referenced application, under 37 C.F.R. § 1.97(h), the filing of this Information Disclosure Statement "shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to the patentability as defined in § 1.56(b)."

Respectfully submitted,



Thomas J. Edgington  
Registration No. 34,324

Attorney for Applicant

Kirkpatrick & Lockhart LLP  
Henry W. Oliver Building  
535 Smithfield Street  
Pittsburgh, PA 15222  
Telephone: (412) 355-8303  
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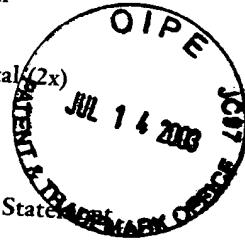
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S.N. 10/601,404 Docket No. 98370C001 CM  
Title: Just Support Apparatus

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